



PATENT
2488-1-003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) : Patricia Anne Nuttall EXAMINER : K.C. Srivastava
SERIAL NO. : 10/085,572 ART UNIT : 1651
FILED : February 27, 2002
FOR : TREATMENT OF CONJUNCTIVITIS

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

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Patricia Nuttall 12/30/02
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RESPONSE TO RESTRICTION REQUIREMENT
UNDER 35 U.S.C. §121

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Dear Sir:

This is in response to a Requirement for Restriction dated November 14, 2002, requiring Applicant to elect between the following groups of claims for further prosecution:

Group I - Claims 1-5 and 8-9 drawn to a method to treat conjunctivitis, classified under Class 514, subclass 2, for example.

Group II - Claim 6 drawn to a method to prepare a medicament, classified under Class 424, subclass 529, for example.

Group III - Claim 7 drawn to a composition, classified under Class 424, subclass 538, for example.

In accordance with 35 U.S.C. §121, Applicant hereby elects to prosecute the claims of Group I, consisting of claims 1-5 and 8-9 drawn to a method to treat conjunctivitis, classified under Class 514, subclass 2, with traversal.

Under 35 U.S.C. §121 "two or more independent and distinct inventions ... in one application may ... be restricted to one of the inventions." Inventions are "'independent'" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "'distinct'" means that "two or more subjects as disclosed are related ... but are capable of separate manufacture, use or sale as claimed, and are patentable over each other" (MPEP 802.01). However, even with patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

Under Patent Office examining procedures, "If the search and examination of an entire application can be made without serious burden, the Examiner is encouraged to examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803, Rev. 8, May 1988).

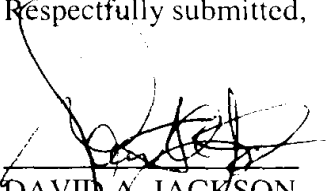
Specifically, the method of Group I calls for the administration of the active ingredient in the medicament and composition of Groups II and III respectively, so that a coextensive search would be anticipated.

For this reason, Applicants traverse the outstanding requirement and request its withdrawal.

For the above reasons, Applicants request withdrawal of the Requirement for Restriction, and early action on the merits as to all of the claims presently pending in the case.

In view of the above, early action on the merits is courteously solicited.

Respectfully submitted,



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